THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 6067 of 2005

Dated: 24-10-2005

Between:

M.Krishnaiah and two others.

..... PETITIONERS

AND

The Commissioner for Cooperation,

Govt., of A.P., Hyderabad and four others.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6067 of 2005

O R D E R:

Heard the learned counsel for both the parties.

This writ petition is filed seeking a declaration that the action of the 3rd respondent in issuing proceedings, dated 14-03-2005, is arbitrary and illegal.

The petitioners claim to be the members of a Co-operative Society registered under the A.P. Co-operative Societies Act, 1964 viz., A.G. Office Staff Co-operative Credit Society Limited, Saifabad, Hyderabad.

It is to be noted that initially by order dated 07-11-2002, the third respondent-Divisional Co-operative Officer, Secunderabad Division has passed an order superseding the Managing Committee of the above Society. Questioning the said proceedings, the respondents 4 and 5 herein, who were the members of the Managing Committee, along with three others filed CTA. No.200/2002

before the A.P. Co-operative Tribunal, Hyderabad. The Tribunal by order dated 24-01-2005 allowed the appeal and the order of supersession, dated 07-11-2002 was set aside. Aggrieved thereby the Society represented by the person-in-charge filed W.P.No.2521 of 2005. This Court by order dated 23-02-2005, while holding that the person in-charge has no *locus standi* to question the said order of the Tribunal, dismissed the writ petition. However, it was observed that since some of the members have submitted representations to the Divisional Co-operative Officer, Secunderabad, complaining about various acts and omissions on the part of the President and Secretary and other members of the erstwhile Managing Committee of the Society, the authority to whom such representations made shall examine the same and pass appropriate orders in accordance with law. It is also to be noted that in the meanwhile, the Divisional Co-operative Officer by order dated 14-03-2005 directed the person-in-charge Committee to hand over the charge of the Society to the Managing Committee by virtue of the order of the Co-operative Tribunal, dated 24-01-2005 in C.T.A.No.200 of 2002, in which the order of supersession was set aside. Questioning the said order, dated 14-03-2005, this writ petition is filed.

The only grievance of the petitioner appears to be that since the representations made by the petitioners complaining about certain irregularities committed by the President and Secretary of the erstwhile Committee are still pending, the Divisional Co-operative Officer is not justified in directing the person in-charge to hand over the charge of the Society to the very same Managing Committee, which was earlier superseded on the allegation of misutilisation of funds.

On behalf of the respondents, counter-affidavits have been filed. In the counter-affidavits, the fact that some of the members made a representation dated 17-02-2005 requesting to take action against the Managing Committee of the Society for their alleged lapses has not been disputed. However, in the counter-affidavit filed on behalf of the respondents 1 to 3 it is stated that the alleged lapses were already covered in the inspection conducted under Section 52 of the Andhra Pradesh Co-operative Societies Act 7 of 1964 (for short 'the Act') and though no misappropriation of the funds was detected in the inspection, the members of the Managing Committee were held responsible to make good the amounts specified thereunder. It is further stated that whereas

the surcharge enquiry was concluded vide proceedings dated 14-02-2005 the Managing Committee of the Society was suspended under Section 34 (1) of the Act much earlier vide proceedings dated 07-11-2002 and therefore, once the Managing Committee members take the charge of the affairs of the Society, fresh action under Section 34 (1) of the Act will be initiated and after following the due procedure as observed by the A.P. Co-operative Tribunal in the appeal C.T.A.No.200/2002, the necessary action will be initiated against the Managing Committee of the Society.

Having regard to the circumstances explained in the counter-affidavit filed by the Deputy Registrar-Divisional Cooperative Officer, it is clear that the respondents are proposing to initiate fresh proceedings against the members of the Managing Committee under Section 34 (1) of the Act on the basis of the surcharge enquiry already conducted.

In the circumstances, I do not find any reason to keep the writ petition pending. Admittedly, the order of supersession, dated 07-11-2002 was already set aside by the Tribunal on appeal and therefore, the order passed by the Divisional Cooperative Society directing the person-in-charge to hand over the charge to the Managing Committee of the society cannot be held to be illegal.

In the circumstances, recording the statement of the respondents 1 to 3 in the counter-affidavit that necessary action will be initiated under Section 34 (1) of the Act against the members of the Managing Committee after following due procedure as pointed out by the A.P. Co-operative Tribunal in CTA No.200 of 2002, the writ petition is disposed of.

It is made clear that on the basis of the representations made by the petitioners complaining about the alleged irregularities committed by the members of the Managing Committee if no order has been passed so far, the respondents 1 to 3 are directed to pass appropriate orders and communicate the same to the petitioners within a period of four weeks from the date of receipt of a copy of this order. No costs.

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G.ROHINI,J

24-10-2005

klp